

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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UNITED STATES OF AMERICA,

Plaintiff,

v.

JARRELL DANIELS,

Defendant.

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Crim. No. 18-411 (KM)

**MEMORANDUM ORDER**

Defendant Jarrell Daniels was convicted after a jury trial of one count of possession of a firearm by a convicted felon in violation of 18 U.S.C. § 922(g), for which I sentenced him on January 28, 2021, to 120 months in prison. DE 68 (Judgment). He appealed. On February 3, 2021—i.e., after I sentenced him but before his appeal was resolved—he filed a pro se “omnibus motion.” DE 70. The motion asks the Court to set aside the guilty verdict, “arrest” the judgment, stay the sentence, and order a new trial. *Id.* Now the Third Circuit has affirmed the conviction and sentence in an unpublished opinion dated September 6, 2022. DE 77, 80-1. Its mandate issued on September 28, 2022. DE 80.

If Daniels seeks to petition the Court to set aside or vacate his conviction or sentence, he must file a motion pursuant to 28 U.S.C. § 2255 on the proper form. Because federal law requires a district court to dismiss a second or successive § 2255 motion, 28 U.S.C. §§ 2244(a), 2255(h), Daniels must include all available federal claims in his first § 2255 motion. *See United States v. Miller*, 197 F.3d 644, 649 (3d Cir. 1999); Rules Governing § 2255 Cases, Rule 2(b)(1), 28 U.S.C. § 2255.

Accordingly, IT IS this 21st day of October, 2022,

**ORDERED** that if Daniels seeks to have this Court vacate, set aside, or correct his conviction or sentence, he shall file one all-inclusive motion pursuant to 28 U.S.C. § 2255 on the proper form (AO243 (modified): DNJ-Habeas-004 (Rev. 01-2014)), and such motion shall include all available federal claims; and it is further

**ORDERED** that Daniels's omnibus motion (DE 70) is denied without prejudice to renewing the arguments therein after the Court receives Daniels's § 2255 motion; and it is further

**ORDERED** that the Government shall file a full and complete answer to Daniels's § 2255 motion within forty-five (45) days of its filing; and it is further

**ORDERED** that the Government shall raise by way of its answer any appropriate defenses that it wishes the Court to consider, including, with respect to the asserted defenses, relevant legal arguments with citations to appropriate legal authority; and it is further

**ORDERED** that the answer shall be accompanied by certified copies of all notices, opinions, documents, transcripts, or recordings of any proceedings, including all documentation that may be material to the questions raised in the motion; in lieu of providing certified copies, however, the Government may cite the criminal docket by referencing the ECF docket entry number and the page; and it is further

**ORDERED** that Daniels may file and serve a reply in support of the motion within forty-five (45) days after the answer is filed; and it is further

**ORDERED** that the Clerk of the Court shall serve a copy of this memorandum order upon Daniels by regular U.S. mail, accompanied by a blank Motion to Vacate, Set Aside, or

Correct a Sentence by a Person in Federal Custody, Form AO243 (modified): DNJ-Habeas-004  
(Rev.01-2014).

/s/ Kevin McNulty

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KEVIN MCNULTY  
United States District Judge